

**REMARKS**

Claims 2-11 and 13 are pending. Claim 8 has been amended to depend from claim 13.

**I. §102(e) Rejections over Domenz**

Claims 2-7 and 13 are allowable because applicant can overcome the § 102(e) rejection over Domenz.

A § 102(e) rejection can be overcome with applicant's earlier foreign priority application when (1) 35 U.S.C. § 119 is met, (2) the foreign priority application antedates the reference, and (3) the foreign priority application supports all of the claims of the subject application. See MPEP § 706.02(b) and MPEP § 2136.05 (citing *In re Gosteli*, 872 F.2d 1008 (Fed. Cir. 1989)). In this context, "supports" means conforms to 35 U.S.C. § 112, first paragraph, requirements.

First, § 119 must be met. This requires perfecting a claim to priority under § 119. To perfect a claim to priority under § 119, applicant must file a certified priority document of the application and an English translation thereof.

The subject application is a national phase filing of International Application No. PCT/IB03/05073, which claims priority to French Application No. 02/14093 filed November 12, 2002 (the "French priority application"). Applicant submitted a certified copy of the French priority application on April 27, 2005 and is submitting an English translation of the French priority application herewith. The undersigned asserts that, to the best of her knowledge, the English translation submitted herewith is accurate. Therefore, applicant has perfected the claim to priority, and §119 has been met.

Second, the foreign application must antedate the reference. As explained above, the French priority application was filed on November 12, 2002. Domenz was filed March 5, 2003, after the French priority application. Therefore, the French priority application antedates Domenz.

Third, the French priority application must support all of the pending claims in the subject application and conform to §112, first paragraph, requirements. All of the pending claims of the subject application can find support in the English translation of the French priority application at least on page 9, line 32 to page 10, line 13 and on page

11, line 23 to page 12, line 9. Therefore, the French priority application conforms to § 112, first paragraph, requirements and supports the pending claims of the subject application.

For at least the reasons stated above, applicant has overcome the § 102(e) rejections over Domenz. Therefore, this rejection should be withdrawn and claims 2-7 and 13 should be allowed.

## **II. §102 Rejections over Heitschel**

Claim 8 has been amended to depend from claim 13, and claims 9-11 depend from claim 8. Therefore, claim 8-11 contains all of the limitations of independent claim 13.

As acknowledged by the Office Action, Heitschel does not anticipate claim 13. Therefore, Heitschel cannot anticipate dependent claims 8-11.

For at least these reasons, the anticipation rejection over Heitschel should be withdrawn and claims 8-11 should be allowed.

## **III. §103 Rejections**

The Office Action included various § 103 rejections. However, in a telephone call on October 15, 2010, the Examiner indicated that the § 103 rejections were included in error. Therefore, none of the pending claims are rejected under § 103.

## **IV. Conclusion**

For the foregoing reasons, applicant submits that claims 2-11 and 13 are not anticipated by Domenz or Heitschel. Therefore, applicant respectfully requests allowance of these claims. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution hereof, the Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, such as a check being in the wrong amount,

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Amendment and Reply to non-final Office Action mailed July 28, 2010

unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920.

Respectfully submitted,

Dated: October 28, 2010

By: \_\_\_\_\_



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